

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**February 26 – March 2, 2001**

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
2-27	EX	75/444,349	Hayashi	Seeherman Hohein* Rogers	2(d)	Refusal Affirmed		"EXTASY RECORDS INTERNATIONAL" [a series of sound recordings, namely, phonograph records, prerecorded compact discs, and videos featuring music and entertainment]	"EAR X-TACY" (in stylized lettering) [prerecorded cassette tapes, video tapes, CDs, laser discs and records featuring music and entertainment and blank cassette tapes and blank video tapes and CD and cassette storage cases]	Cordova	No
2-27	EX	75/508,524	Senior Technologies, Inc.	Quinn* Wendel Drost	2(d)	Refusal Affirmed		"TABS SELECT" [remote patient position monitors]	"SELECT" [patient monitors]	Hayash	No
2-27	EX	75/397,987	Data Critical Corp.	Cissel* Hanak Chapman	2(d)	Refusal Affirmed		"LABVIEW" [computer hardware and software, for use with medical patient monitoring equipment, for receiving, processing, transmitting and displaying of data]	"LABVIEW" [computer programs and instructional manuals sold as a unit]	Belenker	No
2-27	EX	75/518,504	First Security Capital, L.L.C.	Hairston Chapman Wendel*	2(e)(1)	Refusal Affirmed		"OPTION CONVERSION LOAN" [financial services, namely, making loans of up to 90% of the value of the shares in a company that have been converted from either vested incentive stock options and/or vested non-qualified stock options by an employee of that company prior to loan funding]		R. Clark	No

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2-27	EX	75/515,579	First Security Capital, L.L.C.	Hairston Chapman Wendel*	2(e)(1)	Refusal Affirmed		"ESOP QUALIFIED ASSET LOAN" [financial services, namely, making loans of up to 90% of the value of the reinvested proceeds from the sale of a company to an employee stock ownership plan]		R. Clark	No
2-27	EX	75/576,807	KidsPark, Inc.	Cissel* Hohein Walters	2(d)	Refusal Affirmed		"KIDSPARK QUALITY KIDCARE WHEN YOU WANT IT" (and design) [child care services]	"CHILDREN'S PARK" [professional child care services]	Fink	No
2-27	EX	75/015,839	Toshiba America, Inc.	Cissel* Hohein Chapman	2(d)	Refusal Affirmed		"ASPIRE CI" [computed tomography software and hardware]	"ASPIRE" [computer, monitor, keyboard, printer, scanner, and remote controller]	Billings	No
2-27	EX	75/385,899	Preferred Capital Corp.	Cissel* Hohein Wendel	2(e)(1); requirement for information under Rule 2.61(b)	Refusal Affirmed (on both grounds)		"PREFERRED LEASE EQUIPMENT CARD" (and design) [lease-purchase financing of office equipment]		Pernell	No
2-27	OPP	111,788	Portofino Sun Center Corp. v. Brigata Int'l, Inc.	Cissel* Quinn Holtzman	2(d)	Opposition Sustained	"PORTOFINO SUN CENTER" (and design) [artificial sun tanning services]; "PORTOFINO SUN CENTER" (and design), "PORTOFINO," and "PORTOFINO CASUAL" [all three marks for sportswear clothing items, including t-shirts]	"PORTOFINO" [clothing, namely, men's shirts, jackets, suits, pants, blazers, shorts, t-shirts, under garments, sleepwear, shoes, and socks]			No

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2-27	EX	75/543,289	Florida Tan Center, Inc.	Cissel* Quinn Hairston	2(e)(3)	Refusal Affirmed		"FLORIDA TAN CENTRES" [tanning salon services]		Belouin	No
2-27	OPP	113,404	Trustees of Dartmouth College v. Jonathan D. Heavey	Quinn Wendel* Drost	2(d)	Opposition Sustained	"DARTMOUTH" and "DARTMOUTH COLLEGE" [both marks for educational services]; "DARTMOUTH" and "DARTMOUTH" (and design consisting of or incorporating the letter "D") [wearing apparel]	"DARTMOUTH MOOSE" (and design incorporating the letter "D") [clothing, namely, t-shirts, athletic jerseys, sweat shirts, sweat pants, shorts, pants, hats]			No
2-27	EX	75/457,359	Best Software, Inc.	Walters* Wendel Holtzman	2(e)(1)	Refusal Reversed		"BUDGET DIRECTOR" [computer software for use in accounting, financial management and planning, and budget forecast and analysis]		Switzer	No
2-27	EX	75/529,277	Hygiene Systems, Inc.	Hanak* Chapman Drost	2(d)	Refusal Affirmed		"NATURE SAVER" [paper, namely, toilet tissue and paper towels]	"NATURE SAVER" [a wide variety of paper products, including paper towels and tissues]	Fromm	No
2-27	EX	75/542,447	Bijoux Int'l., Inc.	Cissel Hairston* Holtzman	2(d); Section 6 disclaimer requirement (of the word SPORT)	Refusal Affirmed (on 2(d) ground only)		"EXTREME SPORT" [all purpose sport bags and fanny packs, backpacks, duffel bags, travel bags, tote bags, handbags, and luggage]	"EXTREME" [backpacks]	Micheli	No
2-28	EX	75/424,744	Carinhoso Globo B.V.	Hanak Holtzman* Rogers	2(d)	Refusal Reversed		"OPPUS" [shoes and boots for daily wear]	"OPUS ORIGINAL" (and design incorporating an animal) [neckties]	Fickes	No

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2-28	EX	75/273,447	United Systems of Arkansas, Inc.	Seeherman Hairston* Rogers	2(e)(1)	Refusal Reversed		"GLOBAL POSTAL SYSTEM" [worldwide business consultation, namely, assisting in the development of solutions to problems and needs businesses encounter with regard to mail requiring delivery of the mail by special service]		Donnell	No
2-28	EX	75/465,988	Cimmetry Systems Inc.	Quinn Hairston* Walters	2(d)	Refusal Affirmed		"CIMMETRY" [computer software for use in document format support, namely, document display, document printing, file access, network file access, linking files, markup, all in file formats, consolidation of files; viewing, downloading and printing files from a global computer network; and viewing, copying, and printing e-mail attachments to documents; computer education and training services; technical support for others in the field of computers; computer consultation; custom design of computer software for others]	"SYMMETRY" [computers]	Richards	No

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2-28	EX	75/465,820	Cimmetry Systems Inc.	Quinn Hairston* Walters	2(d)	Refusal Reversed		"CIMMETRY SYSTEMS" (and design incorporating the letters "CS" in a rectangle) [computer software for use in document format support, namely, document display, document printing, file access, network file access, linking files, markup, all in file formats, consolidation of files; viewing, downloading and printing files from a global computer network; and viewing, copying, and printing e-mail attachments to documents; computer education and training services; technical support for others in the field of computers; computer consultation; custom design of computer software for others]	"SYMMETRY" [computers]	Richards	No
2-28	EX	75/300,898	SpecComm Int'l., Inc.	Quinn Chapman Holtzman*	2(e)(1)	Refusal Affirmed		"VIRTUAL FIRE & RESCUE EXPO" [conducting educational workshops in the field of fire and rescue by means of a global computer information network]		Butterman	No

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2-28	EX	75/372,369	MBNA America Bank, N.A.	Cissel Wendel* Bottorff	2(e)(1)	Refusal Affirmed		"DIRECT CONNECT" [non-cellular and non-operator assisted conference call services, electronic mail services, and facsimile receipt and transmittal services offered exclusively to applicant's bank credit card customers]		Cordova	No
2-28	EX	75/549,127	Zenith Products Corp.	Walters Wendel Bucher*	2(e)(1)	Refusal Affirmed		"COUNTRY COTTAGE" [bathroom cabinets and bathroom shelving]		Gilbert	No
2-28	EX EX	75/457,125 75/457,126	Best Software, Inc.	Simms* Seeherman Chapman	Section 6 disclaimer requirement (of the words BEST and PREMIER)	Refusal Affirmed (in both cases)		"BEST! SUPPORTPLUS PREMIER" and "BEST! SUPPORTPLUS" [both marks for membership services in the nature of providing computer software consultation; and computer consultation and support services, namely, providing upgrades of finance, tax, accounting, budget, human resource, payroll, and asset management computer software]		Spils	Yes

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2-28	OPP	94,153	Educational Testing Service v. Training & Development Corp.	Walters Chapman* Bottorff	2(d); whether applicant has bona fide intention to use the mark is seeks to register; counterclaim to cancel on ground that opposer has not used its pleaded mark on certain goods for which it is registered, namely, computer programs	Opposition Sustained (on 2(d) ground only); Counter-claim to cancel denied	"THE PRAXIS SERIES: PROFESSIONAL ASSESSMENTS FOR BEGINNING TEACHERS" and two registrations for "THE PRAXIS SERIES PROFESSIONAL ASSESSMENTS FOR BEGINNING TEACHERS" (and design) ( <i>one of the latter registrations includes color lining</i> ) et al. [ <i>all marks for computer programs in the field of test development, test administration and test scoring for teacher examinations; printed test forms and test form answer sheets, printed booklets and instructional manuals for teacher examinations; and test development, test administration and test scoring services for a series of teacher examinations, performing research and validity studies with respect to teacher examinations</i> ]	"PRA?IS PERSONAL RECORDS ACCESS AND INFORMATION SYSTEM" [computer-based software for use by educators, trainers and social service providers to integrate services delivery, and to monitor and evaluate the status, progress and performance of individuals, programs and enterprises]			No

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3-2	OPP	110,763	Niblick Pty. Ltd. v. Kriton Golf Corp.	Seeherman (D) Quinn* Rogers	2(d)	Opposition Sustained	"NIBLICK" [sports clothing, namely, shirts, jackets, pants, rainwear and caps, footwear and golf shoes]	"NIB LOCK" (and design) [golfing accessories, namely, golf club locks and golf bag locks]			No
3-2	EX EX	75/395,046 75/395,048	Maharishi Ayur-Ved Products Int'l., Inc.	Quinn Chapman* Rogers	2(e)(1)	Refusal Affirmed (in both cases)		"KAPHA" and "PITTA" [both marks for aromatherapy oils for personal use; massage oils; facial masks, scrubs, creams and moisturizers; body lotions; and hair conditioners and shampoos]		Salemi	No
3-2	EX	75/390,298	Robert Weinke	Cissel* Hohein Bucher	2(e)(1); requirement for information under Rule 2.61(b)	Refusal Affirmed (on 2(e)(1) ground only)		"BANK GLOBAL" [financial services, namely, banking services offered electronically and through traditional methods]		Micheli	No
3-2	EX	75/358,543	Platinum Technology, Inc.	Seeherman Wendel* Drost	2(e)(1)	Refusal Reversed		"INDEX EXPERT" [computer software for use by computer system programmers, database administrators, computer system administrators and other computer professionals for the organization, administration, management and programming of databases, and user manuals distributed as a unit therewith]		Gilbert	No

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3-2	EX	75/466,859	Midwest Wireless Communications, L.L.C.	Seeherman* Quinn Rogers	2(d)	Refusal Reversed		"CLEARLY DIGITAL" [telephone communication services for voice and data]	"CLEARLY DIGITAL" [audio consoles comprising audio mixing devices for multiple audio sources and processors; broadcast studio workstations comprising computer hardware and operating software for broadcast information; AM, FM, and TV excitors; and satellite earth stations comprising digital encoders and decoders]	Smiga	No
3-2	EX	75/581,705	The Marvel Group, Inc.	Quinn* Holtzman Rogers	2(d)	Refusal Affirmed		"ELEVATIONS" [modular office workstations comprising frames, shelving, work surfaces, keyboard trays, cabinets, enclosures, drawers and printer stands]	"ELEVATIONS" [furniture]	Chisolm	No
3-2	EX	75/589,564	Rumpus Corp.	Hanak Bucher* Drost	2(d)	Refusal Affirmed		"HARRY HAIRBALL" [a plush toy cat with removable insides]	"HAIRBALL" [toy balls, namely, children's throwing toys for use indoors and outdoors; stuffed toys, and pet toys]	Noh	No

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